

IN THE CHANCERY COURT FOR WILLIAMSON COUNTY, TENNESSEE
TWENTY-FIRST JUDICIAL DISTRICT AT FRANKLIN

STATE OF TENNESSEE,

Plaintiff,

v.

No . _____

TELEFLORIST, INC., a Pennsylvania corporation, dba
Alcoa Florist Delivery.com, Brentwood Florist of
Brentwood.com, Brentwood Flowers of Brentwood.com,
Bristol Florist, Clarksville Florist and Gifts
DeliveryDotCom, Clarksville Florist Delivery.com,
Clarksville Florist in Clarksville, Cleveland Florist of
Cleveland.com, Cleveland Flowers of Cleveland.com,
Clifton Florist and Gifts and Delivery.com, College Dale
Florist and Gift Delivery, Collierville Flowers and Gifts
Com, Columbia Florist Delivery.com, Columbia Florist
in Columbia.com, Columbia Florist of Columbia.com,
Columbia Flowers of Columbia.com, Dayton Florist &
Gifts Delivery.com, Dickson Florist and Gift Delivery
Dot Com, Dyersburg Florist and Gifts Delivery.com,
Fayetteville Florist and Gifts Delivery.com, Florist
Network, Franklin Florist Delivery.com, Franklin Florist
in Franklin.com, Germantown Florist Delivery.com,
Germantown Florist in Germantown.com, Germantown
Florist of Germantown.com, Germantown Flowers of
Germantown.com, Jackson Florist & Gifts Delivery Com,
Jefferson City Florist & Gifts Delivery Dot Com,
Knoxville Florist Delivery.com, Knoxville Florist in
Knoxville.com, Lenior City Florist & Gifts Delivery.com,
Lewisburg Florist & Gifts Delivery.com, Lexington Florist
& Gifts Delivery.com, Maryville Florist & Gifts
Delivery.com, Memphis Florist & Gifts Delivery.com,
Milan Florist & Gifts Delivery.com, Morristown Florist &
Gifts Delivery, Murfreesboro Florist Delivery.com,
Murfreesboro Florist in Murfreesboro.com, Murfreesboro
Florist of Murfreesboro.com, Murfreesboro Flowers of
Murfreesboro.com, Nashville Florist and Gifts
Delivery.com, Nashville Florist Delivery.com, Nashville
Florist in Nashville.com, Oak Ridge Florist and Gift
Delivery Dot Com, Paris Florist, Pulaski Florist & Gifts

Delivery.com, Ripley Florist & Gifts Delivery.com, Sandy)
Springs Florist Delivery, Savannah Florist & Gifts)
Delivery.com, Sevierville Florist & Gifts.com, Shelbyville)
Florist & Gifts.com, Smyrna Florist and Delivery,)
Springfield Florist and Gifts Delivery.com, Springhill)
Florist & Gifts Delivery.com, Union City Florists and)
Gifts Delivery, and Whitehouse Florist & Gifts Delivery,)
Defendant.)

AGREED FINAL JUDGMENT

Plaintiff, the State of Tennessee, by and through the Tennessee Attorney General, at the request of the Director of the Division of Consumer Affairs of the Department of Commerce and Insurance, and Defendant, Teleflorist, Inc., a Pennsylvania corporation, doing business as Alcoa Florist Delivery.com, Brentwood Florist of Brentwood.com, Brentwood Flowers of Brentwood.com, Bristol Florist, Clarksville Florist and Gifts DeliveryDotCom, Clarksville Florist Delivery.com, Clarksville Florist in Clarksville, Cleveland Florist of Cleveland.com, Cleveland Flowers of Cleveland.com, Clifton Florist and Gifts and Delivery.com, College Dale Florist and Gift Delivery, Collierville Flowers and Gifts Com, Columbia Florist Delivery.com, Columbia Florist in Columbia.com, Columbia Florist of Columbia.com, Columbia Flowers of Columbia.com, Dayton Florist & Gifts Delivery.com, Dickson Florist and Gift Delivery Dot Com, Dyersburg Florist and Gifts Delivery.com, Fayetteville Florist and Gifts Delivery.com, Florist Network, Franklin Florist Delivery.com, Franklin Florist in Franklin.com, Germantown Florist Delivery.com, Germantown Florist in Germantown.com, Germantown Florist of

Germantown.com, Germantown Flowers of Germantown.com, Jackson Florist & Gifts Delivery Com, Jefferson City Florist & Gifts Delivery Dot Com, Knoxville Florist Delivery.com, Knoxville Florist in Knoxville.com, Lenior City Florist & Gifts Delivery.com, Lewisburg Florist & Gifts Delivery.com, Lexington Florist & Gifts Delivery.com, Maryville Florist & Gifts Delivery.com, Memphis Florist & Gifts Delivery.com, Milan Florist & Gifts Delivery.com, Morristown Florist & Gifts Delivery, Murfreesboro Florist Delivery.com, Murfreesboro Florist in Murfreesboro.com, Murfreesboro Florist of Murfreesboro.com, Murfreesboro Flowers of Murfreesboro.com, Nashville Florist and Gifts Delivery.com, Nashville Florist Delivery.com, Nashville Florist in Nashville.com, Oak Ridge Florist and Gift Delivery Dot Com, Paris Florist, Pulaski Florist & Gifts Delivery.com, Ripley Florist & Gifts Delivery.com, Sandy Springs Florist Delivery, Savannah Florist & Gifts Delivery.com, Sevierville Florist & Gifts.com, Shelbyville Florist & Gifts.com, Smyrna Florist and Delivery, Springfield Florist and Gifts Delivery.com, Springhill Florist & Gifts Delivery.com, Union City Florists and Gifts Delivery, and Whitehouse Florist & Gifts Delivery, ("Defendant"), as evidenced by their signatures, do consent to the entry of this Judgment and its provisions. Defendant enters into this Judgment to avoid the time and expense associated with litigation. This is an Agreed Final Judgment ("Order") for which execution may issue.

Defendant denies any wrongdoing in the conduct of its business. This Agreed Final Judgment does not constitute any evidence or admission of any kind. The Agreed Final Judgment does not constitute a finding by any court that Defendant has engaged in any act or practice declared unlawful by any laws, rules or regulations of the State of Tennessee.

The Defendant expressly waives ten day notice of the Attorney General's intention to file an action pursuant to Tenn. Code Ann. § 47-18-108(a)(2). This Order only resolves matters set forth in the State's Complaint. Defendant hereby accepts and expressly waives any defect in connection with service of process issued on the Defendant by the State.

This Agreed Final Judgment is entered into by Defendant as its own free and voluntary act and with full knowledge and understanding of the nature of the proceedings and the obligations and duties imposed upon it by this Agreed Final Judgment, and it consents to its entry without further notice, and avers that no offer, agreements or inducements of any nature whatsoever have been made to it by the Plaintiff or their attorneys or any employee of the Attorney General's Office to procure this Agreed Final Judgment.

In the event the Court shall not approve this Agreed Final Judgment, this Judgment shall be of no force and effect against the State of Tennessee.

This Agreed Final Judgment shall bind Defendant and shall be binding on any and all future purchasers, merged parties, inheritors, or other successors in interest to Defendant.

Defendant has, by signature of its counsel hereto, waived any right to appeal, petition for certiorari, move to reargue or rehear or be heard in connection with any judicial proceedings upon this Judgment.

1. JURISDICTION

1.1 Jurisdiction of this Court over the subject matter and over the Defendant for the purpose of entering into and enforcing this Order is admitted. Jurisdiction is retained by this Court for the purpose of enabling the State to apply to this Court for such further orders and

directions as may be necessary or appropriate for the construction, modification or execution of this Order, including the enforcement of compliance therewith and penalties for violation thereof. Defendant agrees to pay all court costs and attorneys' fees associated with any petitions to enforce any provision of this Order against Defendant.

2. VENUE

2.1 Pursuant to Tenn. Code Ann. § 47-18-107, venue as to all matters between the parties relating hereto or arising out of this Order is solely in the Chancery Court of Williamson County, Tennessee.

3. PARTIES

3.1 Defendant Teleflorist, Inc., warrants and represents that it is the proper party to this Order. Defendant further acknowledges that it understands that the State expressly relies upon this representation and warranty, and that if it is false, incomplete, unfair, deceptive, misleading or inaccurate in any way, the State has the right to move to vacate or set aside this Order, or request that Defendant be held in contempt, if the State so elects.

3.2 Defendant Teleflorist, Inc., represents that it is the true legal name of the entity entering into this Order. The Defendant understands that the State expressly relies upon this representation and if said representation is false, incomplete, inaccurate, deceptive, unfair or misleading in any way, the State has the right to move to vacate or set aside this Order or request that the Defendant be held in contempt, if the State so elects.

3.3 Defendant Teleflorist, Inc. represents and warrants that these are the only dbas, alias and trade names under which it has done business in Tennessee are as follows: Alcoa Florist Delivery.com, Brentwood Florist of Brentwood.com, Brentwood Flowers of Brentwood.com, Bristol Florist, Clarksville Florist and Gifts DeliveryDotCom, Clarksville Florist Delivery.com, Clarksville Florist in Clarksville, Cleveland Florist of Cleveland.com, Cleveland Flowers of Cleveland.com, Clifton Florist and Gifts and Delivery.com, College Dale Florist and Gift Delivery, Collierville Flowers and Gifts Com, Columbia Florist Delivery.com, Columbia Florist in Columbia.com, Columbia Florist of Columbia.com, Columbia Flowers of Columbia.com, Dayton Florist & Gifts Delivery.com, Dickson Florist and Gift Delivery Dot Com, Dyersburg Florist and Gifts Delivery.com, Fayetteville Florist and Gifts Delivery.com, Florist Network, Franklin Florist Delivery.com, Franklin Florist in Franklin.com, Germantown Florist Delivery.com, Germantown Florist in Germantown.com, Germantown Florist of Germantown.com, Germantown Flowers of Germantown.com, Jackson Florist & Gifts Delivery Com, Jefferson City Florist & Gifts Delivery Dot Com, Knoxville Florist Delivery.com, Knoxville Florist in Knoxville.com, Lenior City Florist & Gifts Delivery.com, Lewisburg Florist & Gifts Delivery.com, Lexington Florist & Gifts Delivery.com, Maryville Florist & Gifts Delivery.com, Memphis Florist & Gifts Delivery.com, Milan Florist & Gifts Delivery.com, Morristown Florist & Gifts Delivery, Murfreesboro Florist Delivery.com, Murfreesboro Florist in Murfreesboro.com, Murfreesboro Florist of Murfreesboro.com, Murfreesboro Flowers of Murfreesboro.com, Nashville Florist and Gifts Delivery.com, Nashville Florist Delivery.com, Nashville Florist in Nashville.com, Oak Ridge Florist and Gift Delivery Dot Com, Paris Florist, Pulaski Florist & Gifts Delivery.com, Ripley Florist & Gifts Delivery.com, Sandy Springs

Florist Delivery, Savannah Florist & Gifts Delivery.com, Sevierville Florist & Gifts.com, Shelbyville Florist & Gifts.com, Smyrna Florist and Delivery, Springfield Florist and Gifts Delivery.com, Springhill Florist & Gifts Delivery.com, Union City Florists and Gifts Delivery, and Whitehouse Florist & Gifts Delivery. The Defendant understands that the State expressly relies upon this representation and if said representation is false, incomplete, inaccurate, deceptive, unfair or misleading in any way, the State has the right to move to vacate or set aside this Order or request that the Defendant be held in contempt, if the State so elects.

4. DEFINITIONS

As used in this Agreed Final Judgment, the following words or terms shall have the following meanings:

- 4.1 “Agreed Final Judgment”, “Judgment” or “Order” shall refer to this document entitled “Agreed Final Judgment” entered in the matter of *State of Tennessee v. Teleflorist, Inc., a Pennsylvania corporation, et al*, Williamson County Chancery Court, Case No. _____.
- 4.2 “Consumer” means any person, a natural person, individual, governmental agency or other entities, partnership, corporation, trust, estate, incorporated or unincorporated association, and any other legal or commercial entity however organized.
- 4.3 “Clear and Conspicuous” or “Clearly and Conspicuously”: A statement is “Clear and Conspicuous” or “Clearly and Conspicuously” disclosed if, by whatever medium, it is readily understandable and presented in such size, color, contrast, location, and audibility, compared to other information with which it is presented, that is readily apparent to the person to whom it is disclosed. If such statement is necessary as a modification, explanation or clarification to other information with which it is presented, it must be presented in close proximity to the information it modifies, in a manner which is readily noticeable and understandable. Further, a disclosure of information is not clear and conspicuous if, among other things, it is obscured by the background against which it appears or there are other distracting elements. Warnings, safety disclosures or statements of limitation must be set out in close conjunction with the benefits described, or with appropriate captions, of

such prominence that warnings, safety disclosures or statements of limitation are not minimized, rendered obscure, presented in an ambiguous fashion, or intermingled with the context of the statement so as to be confusing or misleading.

- 4.4 “Defendant” shall refer to Teleflorist, Inc. and/or doing business as or alias listed in the caption.
- 4.5 “Division” or “Division of Consumer Affairs” shall refer to the Tennessee Division of Consumer Affairs of the Department of Commerce and Insurance.
- 4.6 “Floral order” shall mean a consumer’s order for flowers, plants, gifts or other goods or services offered by the Defendant.
- 4.7 “Local telephone directory” shall refer to a telephone directory that is distributed by a telephone company or directory publisher to subscribers located in the local exchanges contacted in the directory. “Local telephone directory” includes: a classified advertising directory, commonly referred to as yellow pages; and/or a directory of individual telephone listings , commonly referred to as the white pages, whether identified as “business listings” or combined listings of residences and business in a directory which does not have separate residence and business listing; and a directory that including listing of more than one telephone company.
- 4.8 “Local telephone number” means a telephone number that has the three number prefix used by the provider of telephone service for telephones physically located within the area covered by the local telephone directory in which the number is listed . “Local telephone number” does not include long distance numbers or 800, 888 or 900 exchange numbers listed in a local telephone directory.
- 4.9 “Telephone directory” shall refer to a telephone directory that is distributed by a telephone company or directory publisher to subscribers. “Telephone directory” includes: a classified advertising directory, commonly referred to as yellow pages; and/or a directory of individual telephone listings , commonly referred to as the white pages, whether identified as “business listings” or combined listings of residences and business in a directory which does not have separate residence and business listing; and a directory that including listing of more than one telephone company.
- 4.10 “Tennessee Consumer Protection Act” or “Consumer Act” shall refer to the Tennessee Consumer Protection Act of 1977 and related statutes found at Tenn. Code Ann. §§ 47-18-101, *et seq.* and as amended from time to time.

5. APPLICATION OF ORDER TO DEFENDANT AND ITS SUCCESSORS

5.1 Defendant agrees that the duties, responsibilities, burdens and obligations undertaken in connection with this Order shall apply to Defendant, to each of its officers, directors, partners, subsidiaries, affiliates, managers, parents, related entities, agents, assigns, representatives, employees, successors, sales staff and any and all other persons or entities acting directly or indirectly on its behalf.

6. PERMANENT INJUNCTION AND REHABILITATION

Accordingly, it is hereby agreed by the Defendant that immediately upon the entry of this Order, pursuant to Tenn. Code Ann. § 47-18-108(b)(2), Defendant, its officers, directors, partners, subsidiaries, affiliates, managers, parents, related entities, agents, assigns, representatives, employees, successors, sales staff and any and all other persons or entities acting directly or indirectly on its behalf and anyone in concert with it, shall be permanently and forever enjoined, restrained and bound from directly or indirectly engaging in the practices set forth herein and further, permanently required to directly or indirectly satisfy the affirmative requirements set forth herein:

- 6.1 Defendant shall not engage in any unfair or deceptive acts or practices in the conduct of its business. Defendant shall fully abide by all provisions of the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. §§ 47-18-101, *et seq.*, including but not limited to § 47-18-104(b)(27) which prohibits any and all unfair and/or deceptive acts or practices.
- 6.2 Defendant shall be prohibited from directly or indirectly representing, advertising, soliciting or otherwise promoting in any fashion or manner that is unfair, deceptive, misleading or false to consumers.
- 6.3 Defendant shall be prohibited from directly or by implication engaging in any unfair, deceptive or misleading acts or practices during their sales presentations or the order taking process.

6.4 Defendant shall cease and not reinitiate use and/or operation of the following local telephone numbers in Tennessee:

615-220-2852	931-270-8400	901-748-1200	865-215-9915	731-285-5122	423-472-5368
615-285-0504	931-363-0760	901-754-4214	865-429-5600	731-427-7633	423-570-8881
615-298-7779	931-381-2877	901-758-5044	865-463-1000	731-635-1191	423-587-6455
615-371-9933	931-388-8828	901-767-0144	865-471-0054	731-641-0003	423-599-5980
615-373-6811	931-433-2080	901-861-0170	865-483-4050	731-885-0206	423-875-2817
615-446-3060	931-461-9923		865-977-6969	731-926-1333	
615-595-5584	931-486-0704		865-982-3125	731-967-0607	
615-742-3337	931-647-2010		865-986-8226		
615-742-3337	931-648-1855				
615-890-0484	931-648-9408				
615-896-6711	931-685-5787				

Further, Defendant shall not use or employ a local telephone number in the future in advertisements placed in Tennessee or available to Tennesseans except in full compliance with the Tennessee Consumer Protection Act of 1977 and all other state and federal laws, regulations and rules. Defendant understands that it is the State's position that the use of a local telephone number and/or name representing or implying the business is local without a physical presence in Tennessee is a violation of the Tennessee Consumer Protection Act. Further any telephone listing should clearly and conspicuously provide the Defendant's physical address.

- 6.5 Defendant shall cease and not renew, or publish any advertisements placed in any telephone directory which use any of the dbas in the caption of this case or any other term or phrase of similar import.
- 6.6 Defendant shall be prohibited from directly or by implication representing that a consumer transaction confers or involves rights, remedies or obligations that it does not have or involve or which are prohibited by law.
- 6.7 Defendant shall be prohibited from directly or by implication falsely passing off its goods or services as those of another.
- 6.8 Defendant shall be prohibited from directly or by implication causing likelihood of confusion or misunderstanding as to the source of its goods or services.

- 6.9 Defendant shall be prohibited from directly or by implication causing likelihood of misunderstanding as to affiliation, connection or association with, or certification by another.
- 6.10 Defendant shall be prohibited from directly or by implication using deceptive representations or designations of geographic origin in connection with goods or services. Without limiting the scope of this provision, Defendant shall be prohibited from placing a listing in any telephone directories using a local number and not providing its full physical address (no post office boxes or professional mail service boxes) in connection with that local number.
- 6.11 Without limiting the scope of paragraph 6.10, Defendant shall be prohibited from advertising using any business name in Tennessee unless Defendant registers it as a trade name with the Tennessee Secretary of State and confirms the name is not registered by another entity(ies).
- 6.12 Without limiting the scope of paragraph 6.10, Defendant shall be prohibited from using a city or town name in the State of Tennessee followed by “florist”, “flowers and gifts”, “florist delivery” or term or phrase of similar import in a Tennessee telephone directory unless Defendant has a physical presence (i.e. store front) in that particular city or town and the name is not previously registered with the Tennessee Secretary of State to another entity.
- 6.13 Defendant shall be prohibited from directly or by implication representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefit or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation or connection that it does not have.
- 6.14 Defendant shall be prohibited from directly or by implication using statements or illustrations in any advertisement which create a false impression of grade, quality, make, value, age, size, color, usability or origin of the goods or services offered.
- 6.15 Defendant shall be prohibited from directly or by implication using a dba, fictitious business name, alias or an assumed business name in any local telephone directory in the State of Tennessee if (a) the name misrepresents the Defendant’s geographic location, or (b) the listing failed to identify the locality and state of the Defendant’s business location; and (c) calls to the local telephone number are routinely forwarded or otherwise transferred to Defendant’s business outside the calling area covered by the local telephone directory and (d) the Defendant’s business is not located in a county that is contiguous to a county in the calling area covered by the local telephone directory and (e) the Defendant does not have a business location or branch, or an affiliate, subsidiary or agent of

the Defendant in the local calling area or county contiguous to the local calling area.

- 6.16 If a consumer telephones or otherwise contacts Defendant and indicates the consumer believes Defendant's business is located in the state of Tennessee or is a particular business in the State of Tennessee and such is not the case, Defendant shall be required to affirmatively, clearly and conspicuously correct the consumer's misunderstanding prior to proceeding to take any order for goods or services from the consumer.
- 6.17 If a consumer telephones or otherwise contacts, Defendant and requests his/her floral order to include a particular floral arrangement type or particular type of flowers or plant, Defendant shall make every effort to provide the consumer with the specifically requested floral order. To address these situations, Defendant shall implement and enforce a substitution policy with the following minimum parameters in those cases where an floral order arrangement type or a particular type of flower or plant is unavailable:
- (A) The consumer shall be timely, clearly and conspicuously notified prior to and must consent to any substitution prior to any substitution of the floral order taking place;
 - (B) The consumer shall be timely clearly and conspicuously notified that he or she has the ability to refuse any substitution and the right to cancel the order with a complete refund;
 - (C) The consumer shall receive at least the same number of flowers as previously ordered with no price increase; and
 - (D) The consumer shall be immediately credited any decrease in price if the same number of substituted flowers cost less than the number of flowers originally ordered. If the same number of substituted flowers cost more, the Defendant must honor the original price charged or quoted.

Further, without limiting the scope of this provision, Defendant is prohibited from taking or receiving floral orders that it does not have a reasonable expectation of being able to fulfill the floral order demand level. If the fulfilling florist or business entity does not notify the Defendant of a substitution of flowers or arrangement, the Defendant is not responsible under this provision. Provided however, Defendant's future contract with any florist or business entity shall require them to notify the Defendant in advance of a substitution to permit compliance with Defendant's substitution policy.

- 6.18 If Defendant takes a percentage or fee (excluding wholesaler agreements regarding profit margins with a fill shop provided such agreements do not reduce the value of the consumer's floral order) off the top of the consumer's floral order or purchase prior to passing it on to a florist or other entity(ies) to fulfill, Defendant shall be required to affirmatively, clearly and conspicuously disclose that fact and the amount of the percentage or fee to the consumer prior to the consumer's purchase.
- 6.19 Defendant shall be required to affirmatively, clearly and conspicuously disclose prior to purchase any charges or costs which will be deducted or reduced from the floral order or purchase before it is processed by Defendant.
- 6.20 Defendant shall be required to affirmatively, clearly and conspicuously disclose any and all costs and fees associated with placing a floral order or purchase with the Defendant.
- 6.21 Defendant shall be prohibited from directly or by implication, representing or implying to consumers that Defendant is a florist if such is not the case. Without limiting the scope of this provision, if Defendant is specifically asked if Defendant is a florist or about what types of flowers it currently has available and Defendant does not have a contractual relationship with a florist in Tennessee, it is required to affirmatively, clearly and conspicuously disclose that "We are a floral order call center in Southampton, Pennsylvania with business relationships with florists in Tennessee who will fill your floral order." If Defendant does have a contractual relationship with a local florist in Tennessee within a reasonable distance from the address the order is to be received or delivered, Defendant may affirmatively, clearly and conspicuously disclose in lieu of the above that "We are a floral shop in Southampton, Pennsylvania who has partnered with a florist in [local city's name], Tennessee to fulfill your order." For purposes of this provision, "contractual relationship" shall not include any contractual or other arrangement from a floral wire service user or other agreement. Further, the "contractual relationship" must be with a florist with a physical floral shop location in the local city referenced in the disclosure..
- 6.22 Defendant shall be required to affirmatively, clearly and conspicuously disclose its physical location, including its physical address (not a post office box or professional mail box service) and telephone number upon request of a consumer.
- 6.23 Defendant shall be prohibited from hanging up on consumers who ask questions, have a complaint or request a refund.
- 6.24 Defendant shall not limit the damages or recovery to which consumers may be entitled under Tennessee law.

- 6.25 Defendant shall be prohibited from stating, implying or causing to be stated or implied that the Attorney General, the Division of Consumer Affairs, the Department of Commerce and Insurance, the Department of Financial Institutions, or any other governmental unit of the State of Tennessee approved, sanctioned, or authorized any practice, act, or conduct of the Defendant.
- 6.26 Defendant shall be prohibited from representing or implying that any procedure or other acts or practices hereafter used or engaged in by Defendant have been approved, in whole or in part, by the State.

7. RESTITUTION

7.1 Defendant shall provide to the State contemporaneously with the entry of this Order, an alphabetical list by last name of the names, addresses and telephone numbers , the amount paid for the order placed with the Defendant of each consumer located in Tennessee who has placed an order through the Defendant since December 1, 2005. The Defendant understands that the State expressly relies upon accuracy of the provided list and if said list contains false, deceptive, unfair incorrect and/or misleading information, the State has the right to move to vacate or set aside this Order or request that Defendant be held in contempt, if the State so elects. The list shall be attached as Exhibit A to this Order and filed with the Court shall only consist of the last name, city, state and amount paid for each consumer.

7.2 Defendant shall provide to the State contemporaneously with the entry of this Order, an alphabetical list by last name of the names, addresses and telephone numbers, the amount paid for the order placed with the Defendant of each consumer who purchased goods for shipment into Tennessee and placed an order through the Defendants since December 1, 2005. The Defendant understands that the State expressly relies upon accuracy of the provided list and if said list contains false, deceptive, unfair incorrect and/or misleading information, the State has the right to move to vacate or set aside this Order or request that Defendant be held in contempt,

if the State so elects. The list shall be attached as Exhibit B to this Order and filed with the Court shall only consist of the last name, city, state and amount paid for each consumer.

7.3 Defendant shall provide to the State contemporaneously with the entry of this Order, an alphabetical list by last name of the names, addresses and telephone numbers, the amount paid for the order placed with the Defendant and the amount of the refund of each consumer who purchased goods for shipment into Tennessee and/or from Tennessee consumers who placed an order through the Defendants since December 1, 2005 and has already received a full refund of all monies from the Defendant. The Defendant understands that the State expressly relies upon accuracy of the provided list and if said list contains false, deceptive, unfair incorrect and/or misleading information, the State has the right to move to vacate or set aside this Order or request that Defendant be held in contempt, if the State so elects. The list shall be attached as Exhibit C to this Order and filed with the Court shall only consist of the last name, city, state and amount paid for each consumer. These consumers have already been provided full refunds and will not receive any additional monies under this Order.

7.4 The Defendant represents and warrants that the total value of the goods or services purchased by four hundred and thirteen (413) consumers listed on Exhibit A, Exhibit B and Exhibit C is approximately Thirty-Two Thousand Dollars (\$32,000.00) with an average purchase price of Eighty Dollars (\$80.00) per consumer. The Defendant understands that the State expressly relies upon accuracy of this representation and if said representation is false, deceptive, unfair, incorrect and/or misleading in any way, the State has the right to move to vacate or set aside this Order or request that Defendant be held in contempt, if the State so elects.

7.5 Within thirty (30) days of entry of this Order, the Defendant shall mail a packet of material to each consumer whose name appears on the list attached as Exhibit A and Exhibit B, described in paragraph 7.1 and 7.2. Such packet of materials shall consist of a letter from the Attorney General of the State of Tennessee (attached hereto as Exhibit C) printed on letterhead chosen at the sole discretion of the Attorney General, refund claim form and self-addressed return envelope. The Defendant shall also offer, as part of this packet, any consumer listed on Exhibit A and Exhibit B the opportunity to obtain a refund of Forty Dollars (\$40.00) per consumer from Defendant if the consumer is dissatisfied for any reason or has otherwise complained about Defendant's conduct. Defendant shall be prohibited from including any other materials in this packet or mailing to consumers. The Defendant also agrees not to send a separate mailing to consumers relating to the refund program. The Attorney General shall receive written notification from the Defendant identifying the date on which the packets and Exhibit D were mailed to the eligible consumers within thirty-five (35) days of entry of this Order.

7.6 Any consumer who was inadvertently omitted from Exhibit A, Exhibit B or Exhibit C shall be eligible for the restitution set forth in this Section.

7.7 The packet of materials required by paragraph 7.5 shall be mailed via first class mail postage paid through the United States Postal Service. All envelopes will be chosen at the sole discretion of the Attorney General and must be clearly marked "**Postmaster: Address Correction Requested**" and "**Important Information about Attorney General Refund Program**" In the event any envelope is returned with a corrected or forwarding address, Defendant shall again mail the full package to the consumer via first class postage paid mail

through the United States Postal Service to the correct address. For said consumers, the ninety (90) day period set forth in paragraph 7.8 shall not commence until the date of mailing the second notice and packet to the corrected address. The Attorney General shall receive written notification of the name, corrected address and date of mailing the second notification to any consumer within thirty (30) days of mailing the second notice.

7.8 Any and all consumers who ordered goods or services from Defendant and who make a request within ninety (90) days after the mailing of the packets and Exhibit C shall be entitled to receive a Forty Dollar (\$40.00) refund from the Defendant by that consumer as set forth in this subsection. To comply with this section, the consumer refund request must be postmarked no later than ninety (90) days of mailing of the packets and Exhibit D to eligible consumers. All refunds will be honored if they are received by the Defendant directly, the Federal Trade Commission, any Better Business Bureau in Tennessee and Pennsylvania or any agency of the State of Tennessee, including but not limited to the Attorney General's Office and/or the Division of Consumer Affairs.

7.9 Consumer refunds shall be by check drawn on an account with sufficient cash balance to fund all refunds and shall not consist of credits or discounts. All consumer refunds shall be mailed by first class United States postage paid mail within thirty (30) days of the receipt of the refund request. Envelopes shall be marked "address correction requested" and refunds shall be re-mailed in the same fashion with an address correction, where applicable. The mailing of refund checks shall consist of the refund check and a letter from the Attorney General of the State of Tennessee (attached hereto as Exhibit E) printed on letterhead chosen at the sole

discretion of the Attorney General. Defendant shall be prohibited from including any other materials, including promotional materials, with the refund checks.

7.10 All mailings to consumers provided for under Section 7 of this Order shall be in envelopes selected at the sole discretion of the Attorney General.

7.11 In the event an eligible consumer returns the claim form in a timely fashion and the Defendant is unable to locate consumers entitled to a refund, those funds due such consumers shall be treated as unclaimed property in the possession of the State of Tennessee pursuant to the Uniform Disposition of Unclaimed Property Act, Tenn. Code Ann. § 66-29-101, *et seq.* These funds may be delivered to the Treasurer prior to the statutory due date of one (1) year set forth in Tenn. Code Ann. § 66-29-110, covering unclaimed property held by courts, public officers and agencies. The Defendant shall provide a report to the Attorney General within six (6) months of the entry of the Order which details the amount delivered to the Treasurer for treatment as unclaimed property under the State statute. The Defendant shall continue to provide this information every six (6) months until all funds have been claimed and/or returned to the Defendant.

7.12 The following unique situations shall be handled as identified when Defendant issues restitution checks to consumers:

- (A) If a consumer who is eligible for restitution is now deceased, the restitution payment shall be made to the estate of the deceased person.
- (B) If the purchase was made by a minor, the restitution check shall be made jointly payable to the minor child's parents or legal guardians. If the child is in the sole custody of one parent or only has one parent or one legal guardian, the restitution check shall be made payable to the sole custodian parent or single parent.
- (C) If the purchase was made by a married couple which are now divorced, a single restitution check shall be made jointly payable to both the former husband and

former wife. Unless a protective order is in place relating to one of the parties, in that situation, two checks shall be issued, half to each former spouse.

- (D) If the purchase was made jointly by two or more unrelated persons, a single restitution check shall be made jointly payable to those persons.

7.13 Defendant is responsible for all costs associated with the refund process set forth in Section 7, including but not limited to, all costs associated with the mailing and content of the packet of materials discussed in Section 7.5 and 7.9, all letterhead, envelopes, copying charges, postage and costs associated with the issuance of refund checks.

7.14 Within six (6) months of entry of this Order, the Defendant shall file with the Attorney General the following information:

- (A) A report verifying and certifying that Defendant completed the refund program set forth in Section 7 of this Order in full conformity with this Order.
- (B) An alphabetical list by last name of the name and address of each consumer who requested a refund, the amount of each individual consumer's refund and the total amount of all refunds provided. Such reports shall be supplemented as needed.
- (C) An acknowledgment that each officer, director or employee of Defendant has received a copy of this Order and has certified to having read it.

7.15 Within twenty (20) days of receipt of a request from the Attorney General's Office or the Division of Consumer Affairs Division for evidence that a specific consumer or consumers have received the required packet and Exhibit D and E and/or their refunds, Defendant shall provide written verification by providing documents necessary to establish to the satisfaction of the Attorney General or Director of the Division of Consumer Affairs that the refund process was completed in compliance with this Order. Such documents shall include, but not be limited to, copies of the front and back of canceled checks and/or mailing records

indicating that the specific consumer or consumers received the required item. This paragraph shall in no way limit the Attorney General's option to obtain documents, records and/or testimony pursuant to Section 10 , Section 15 or any other law, regulation or rule.

7.16 Except as agreed in writing by the parties, the lists and reports under Sections 7.1 7.2, 7.3 and 7.14 provided to the State of Tennessee and in the possession of the Defendant shall not be released to any person to protect the interest of consumer privacy, to prevent further marketing to these consumers and possible identity theft.

7.17 Defendant also agrees that the consumer names, addresses, telephone numbers and other personally identifiable information gathered or otherwise obtained during this consumer relief program will not be used for any marketing purposes or provided to any other person for any reason including but not limited for the purposes of marketing these consumers now or in the future.

7.18 If Defendant continues to do business with Tennesseans or ship orders in to the State of Tennessee after entry of this Order, Defendant agrees to respond to consumer complaints alleging dissatisfaction for any reason within forty-eight (48) hours of actual delivery or receipt of the order and to issue full refunds to consumers within thirty (30) days of notification of a consumer's request for a refund. The consumer must notify Defendant, the Better Business Bureau or a governmental agency such as the Division of Consumer Affairs or the Federal Trade Commission of their complaint within forty-eight hours of actual delivery or receipt of the order in order to receive a full refund under this provision. For purposes of this provision, a consumer with a written complaint post marked or e-mailed to the Defendant, the Better Business Bureau, or a governmental agency within forty-eight hours of actual delivery or receipt of the order is

eligible for a full refund. Nothing herein shall prohibit Defendant from making a full refund or other refund outside of the forty-eight hour window. In the event a consumer complains about billing for their order, the complaint must be made within 5 days of the consumer's receipt of their credit card bill. In the event Defendant is not reachable at a toll-free telephone number provided to the consumer during a time in which applicable time period would run, the consumer's time frame to complain shall be preserved and shall begin running again at such time that Defendant is able to be reached by toll-free telephone number advertised to consumers.

7.19 The parties may agree in writing by mutual agreement to extend any time line or deadline set forth in Section 7.

8. ATTORNEYS' FEES AND COSTS TO THE STATE

8.1 Defendant shall pay the sum of Five Thousand Five Hundred Dollars (\$5,500.00) to the State of Tennessee for attorneys' fees and costs of investigation, prosecution and monitoring for compliance of this matter, which may be used for consumer protection purposes at the sole discretion of the Attorney General. Said payment shall be made as set forth in Section 10. Of the \$5,500.00, the Tennessee Division of Consumer Affairs shall receive One Thousand Dollars (\$1,000.00) to the State of Tennessee for its costs associated with the investigation and refund process set forth herein which shall be used at the sole discretion of the Director of the Division of Consumer Affairs for a consumer education project.

9. CIVIL PENALTIES

9.1 Defendant shall pay the sum of Seven Thousand Five Hundred Dollars (\$7,500.00) to the State of Tennessee as a civil penalty for the Defendant's acts and/or practices described. Said payment shall be made as set forth in Section 10.

10. FORBEARANCE ON EXECUTION AND DEFAULT

10.1 No execution or garnishment on the monetary portion of this Order shall issue so long as the Defendant makes payment in accordance with paragraph 10.2 herein. In the event Defendant fails to make any such payment within twenty (20) days of its due date, the entire monetary balances under this Order then remaining becomes due and payable without notice and may be collected by execution, garnishment or other legal process, together with interest pursuant to Tenn. Code Ann. § 47-14-121 from the date of entry of this Order. Defendant agrees to pay all attorneys' fees and costs, including but not limited to court costs, associated with any such collection efforts.

10.2 Payments towards the \$13,000.00 monetary amount due shall be delivered to the Consumer Advocate & Protection Division, Office of Attorney General as follows: the first payment of \$3,000.00 which shall be due before the close of business on October 1, 2006 and \$2,500.00 the first of each month thereafter until paid in full. All payments shall be made by certified or cashier's check made payable to the "Treasurer, State of Tennessee". The first payments received shall apply to the attorneys' fees of the Attorney General, after that obligation is fulfilled the costs to the Division of Consumer Affairs will be paid and lastly, the civil penalties.

10.3 Defendant shall be required to retain proof of all payments to the State of Tennessee in the form of canceled checks for each payment for a full two (2) years following their final payment to the State. Defendant shall provide proof of all payments to the State within ten (10) days of a request for such information.

10.4 On the day of entry of this Order, Defendant shall provide the State with a current address and telephone number where it can be contacted and served with process in the event of default until the monetary portions of this Order is completed. The address is as follows: Teleflorist, Inc., 654 2nd Street Pike, Southampton, Pennsylvania and telephone number is 1-800-933-7910. Defendant shall further be required to provide any new address and telephone number within two (2) days of relocating to a new address or of obtaining a new telephone number. Service upon the Defendant for the purposes of enforcing the monetary portion of this Order in the event of default shall be effective upon mailing a notice via certified mail return receipt requested and waiting 30 days, if no response is received the State may obtain a default judgment or other adverse ruling sought by the State.

10.5 Defendant agrees that if Defendant defaults on any monetary payment herein the State may set aside this Order and obtain a judgment including full restitution for all consumers including statutory interest and the full amount of civil penalties, attorneys' fees and other remedies that would have been available to the State prior to entry of this Order.

10.6 Defendant agrees that any restitution payments required to persons under this Order for each incident are priority claims under 11 U.S.C. § 507 (a)(6) to the extent of the statutory amount. Any amounts due persons in excess of the 11 U.S.C. § 507(a) and (b) amounts may have different priorities.

10.7 In the event of default of any monetary provision of this Order or any substantive proceeding based upon the monetary amount, Defendant agrees that all statements set forth in the State's Complaint shall be deemed to be admitted for the limited purpose of establishing non-dischargeability of all sums paid hereunder. Specifically, Defendant agrees that all sums are nondischargeable under 11 U.S.C. § 523(a)(2) and 11 U.S.C. § 523(a)(7). Defendant further agrees that in any subsequent proceeding based upon the monetary amount set forth in this Order, Defendant shall not contest the State's right to obtain the full amount due and owing, shall reaffirm any such debt if necessary in order to completely fulfill Defendant's monetary obligations to the State and shall not object in any manner or form that is contradictory to the terms of this Order to any proof of claim filed by the State.

10.8 Defendant agrees that any and all such sums payable under this Order are non-dischargeable in a bankruptcy case.

10.9 Defendant has represented and warranted that it has reviewed its financial situation and that:

- (a) it currently is solvent within the meaning of 11 U.S.C. § 547(b)(3), and will remain solvent following its payment to the State of Tennessee hereunder. Further, the parties expressly warrant that in evaluating whether to execute this agreement, the Parties have:
 - (i) intended that the mutual promises, covenants and obligations set forth herein constitute a contemporaneous exchange for new value given to Defendant, within the meaning of 11 U.S.C. § 547(b)(1), and
 - (ii) concluded that these mutual promises, covenants and obligations do, in fact, constitute such a contemporaneous exchange; and
- (b) the following are correct statements:
 - (i) the debtor was not insolvent within the meaning of 11 U.S.C. § 548(a)(1)(B)(ii) on the date of these promises, covenants and obligations

and did not become insolvent within the meaning of that section as a result of these promises, covenants and obligations; and

- (ii) the Defendant is receiving reasonably equivalent value, so as to take these promises, covenants and obligations outside the purview of 11 U.S. C. § 548 (a)(1)(B)(i).

10.10 Defendant shall give written notice of any bankruptcy filing to:

Deputy Attorney General and
Consumer Advocate & Protection Division
Tennessee Attorney General's Office
Post Office Box 20207
Nashville, TN 37202-0207

Division of Consumer Affairs
c/o TN Attorney General's Office,
Bankruptcy & Collections Division
Post Office Box 20207
Nashville, TN 37202-0207

10.11 Upon request, Defendant agrees to provide books, records and documents to the State at any time, and further, to informally or formally under oath, provide testimony and other information to the State relating only to compliance with this Order. Defendant shall make any requested information available within one (1) week of the request, at the Office of the Attorney General or alternatively, at any other location within the State of Tennessee that is mutually agreeable in writing to Defendant and the Attorney General. This section shall in no way limit the State's right to obtain documents, information, or testimony pursuant to any federal or state law, regulation, or rule.

10.12 Without limiting the scope of paragraph 10.11, upon default of any monetary provision of this Order, Defendant agrees to provide testimony under oath for the purposes of determining Defendant's financial status and to locate any assets available to the State for execution and seizure to fulfill the Defendant's monetary obligations under this Order. Defendant shall be required to pay all costs associated with court reporting and transcription of such sworn statements. Defendant also agrees to, within ten (10) business days, provide written sworn responses to the State's request for documents or other information in the event of default.

11. GENERAL PROVISIONS

11.1 The acceptance of this Order by the State shall not be deemed approval by the State of any of Defendant's advertising or business practices. Further, neither Defendant nor anyone acting on its behalf shall state or imply or cause to be stated or implied that the State of Tennessee, the Attorney General, the Department of Commerce and Insurance, the Division of Consumer Affairs or any other governmental unit of the State of Tennessee has approved, sanctioned or authorized any practice, act, advertisement or conduct of the Defendant.

11.2 This Order may only be enforced by the parties hereto.

11.3 The titles and headers to each section of this Order are for convenience purposes only and are not intended by the parties to lend meaning to the actual provisions of the Order.

11.4 As used herein, the plural shall refer to the singular and the singular shall refer to the plural and the masculine and the feminine and the neuter shall refer to the other, as the context requires.

11.5 Nothing in this Order shall limit the Attorney General's right to obtain information, documents or testimony from Defendant pursuant to any state or federal law, regulation or rule.

11.6 Nothing in this Order shall be construed to limit the authority of the Attorney General to protect the interests of the State or the people of the State of Tennessee. In addition, this Order shall not bar the State, or any other governmental entity from enforcing laws, regulations or rules against the Defendant.

11.7 Nothing in this Order constitutes an agreement by the State of Tennessee concerning the characterization of the amounts paid hereunder for purposes of any proceeding under the Internal Revenue Code or any state tax laws.

11.8 Defendant waives and will not assert any defenses Defendant may have to any criminal prosecution or administrative action relating to the conduct described in the State's Complaint, which defenses may be based, in whole or in part, on the Double Jeopardy or Excessive Fines Clauses of the United States Constitution and Tennessee Constitution or principles set forth in *Hudson v. United States*, 118 S. Ct. 488 (1997), and *Austin v. United States*, 509 U.S. 602 (1993), and agrees that the amount that Defendant has agreed to pay under the terms of this Order is not punitive in effect or nature for purposes of such criminal prosecution or administrative action.

11.9 Defendant hereby expressly waives and relinquishes any and all rights, remedies, appeals or other interests that he/she/it may possess to a jury trial or any derivative rights that flow from a trial by jury under the Tennessee Constitution or United States Constitution or any other law, regulation or rule.

11.10 No waiver, modification, or amendment of the terms of this Order shall be valid or binding unless made in writing, signed by the party to be charged, approved by this Honorable Court and then only to the extent set forth in such written waiver, modification or amendment.

11.11 Any failure by any party to this Order to insist upon the strict performance by any other party of any of the provisions of this Order shall not be deemed a waiver of any of the provisions of this Order, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Order

and the imposition of any applicable penalties, including but not limited to contempt, civil penalties and/or the payment of attorneys fees to the State.

11.12 If any clause, provision or section of this Order shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this Order and this Order shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or other provision had not be contained herein.

11.13 Defendant waives any and all challenges in law or equity to the entry of the Order by the courts. Further, Defendant has waived any right to appeal, petition for *certiorari*, move to reargue or rehear or to otherwise be heard in connection with any judicial proceedings under this Order.

11.14 Time shall be of the essence with respect to each provision of this Order that requires action to be taken by the Defendant within a stated time period or upon a specified date.

11.15 This Order sets forth the entire agreement between the parties, and there are no representations, agreements, arrangements, or understandings, oral or written, between the parties relating to the subject matter of this Order which are not fully expressed herein or attached hereto.

11.16 Nothing in this Order shall be construed to waive any claims of Sovereign Immunity the State may have in any action or proceeding.

11.17 This Order constitutes the complete agreement of the parties with regard to the resolution of the matters set forth in the State's Complaint. This Order is limited to resolving only matters set forth in the State's Complaint.

11.18 If the Defendant declines to obtain the assistance of legal counsel, Defendant has expressly waived his/her/its right to counsel by executing this Order.

10.19 Defendant will not participate, directly or indirectly, in any activity to form a separate entity or corporation for the purpose of engaging in acts prohibited in this Order or for any other purpose which would otherwise circumvent any part of this Order or the spirit or purposes of this order.

12. REPRESENTATIONS AND WARRANTIES

12.1 Defendant represents and warrants that the execution and delivery of this Order is its free and voluntary act, that this Order is the result of good faith negotiations, and that Defendant agrees that the Order and terms hereof are fair and reasonable. The parties warrant that they will implement the terms of this Order in good faith.

12.2 Defendant represents and warrants that signatories to this Order have authority to act for and bind the Defendant.

12.3 Defendant represents and warrants that it has not operated any telephone numbers other than those identified and listed in paragraph 6.4 in the State of Tennessee.

12.4 Defendant represents and warrants that it commenced accepting orders from Tennessee consumers and for shipment in the State of Tennessee commencing in December, 2005 and concluding on September 19, 2006.

12.5 Defendant represents and warrants that it has only advertised in the State of Tennessee in the BellSouth yellow and white pages commencing in December, 2005 and continuing through September 19, 2006.

12.6 Defendant represents and warrants that other than the Tennessee, Attorney General and the Tennessee Division of Consumer Affairs, Defendant and its officers have not been investigated by or sued by any law enforcement entity for consumer protection law violations in the past.

12.7 Defendant represents and warrants that it is a small business with only three (3) employees. As a result, it does not have the financial ability to pay additional sums to the State of Tennessee.

12.8 Defendant further acknowledges that it understands that the State expressly relies upon the representations and warranties set forth in Section 3, Section 12 and otherwise in this Order, and that if they are false, incomplete, unfair, deceptive, misleading or inaccurate in any way, the State has the right to move to vacate or set aside this Order, or request that Defendant be held in contempt, if the State so elects.

13. COMPLIANCE WITH ALL LAWS

13.1 Nothing in this Order shall be construed as relieving the Defendant of the obligation to comply with all state and federal laws, regulations or rules, nor shall any of the provisions of this Order be deemed to be permission to engage in any acts or practices prohibited by such law, regulation, or rule.

14. PENALTY FOR FAILURE TO COMPLY

14.1 Defendant understands and acknowledges that pursuant to the provisions of the Tennessee Consumer Protection Act, Tenn. Code Ann. 47-18-108(c), any knowing violation of

the terms of this Order shall be punishable by civil penalties of not more than Two Thousand Dollars (\$2,000.00) for each violation, in addition to any other appropriate sanctions including but not limited to contempt sanctions and the imposition of attorneys' fees and civil penalties.

14.2 Defendant understands that upon execution and filing of this Order, any subsequent failure to comply with the terms hereof is a prima facie evidence of a violation of the Tennessee Consumer Protection Act.

14.3 The State will enforce this Agreed Final Judgment with due regard to fairness and will not seek sanctions for a single violation of this Agreed Final Judgment for an isolated, non-material, and unintended mistake.

15. MONITORING FOR COMPLIANCE

15.1 Upon request, Defendant shall provide documents to the State at any time, and further, to informally, or formally under oath, provide testimony or other information to the State relating only to compliance with this Order. Defendant shall make any requested information available within two (2) weeks of the request, at the Office of the Attorney General or at such other location within the State of Tennessee as is mutually agreeable in writing to Defendant and the Attorney General. This shall in no way limit the State's right to obtain documents, records, testimony or other information pursuant to any law, regulation, or rule.

15.2 Within thirty (30) days of the entry of this Order, Defendant shall submit a copy of this Order to each of its officers, directors, full-time employees and any third parties who act directly or indirectly on behalf of the Defendant as an agent, independent contractor or who are involved in conducting business in the State of Tennessee. Within forty-five (45) days of entry

of this Order, Defendant shall provide the State with an affidavit verifying and certifying that all required persons have been supplied with a copy of this Order.

15.3 The State of Tennessee has the right to test shop Defendant for the purpose of confirming compliance with this Order and state law. The test shoppers are not required to disclose that they are representatives of the State of Tennessee when making contact with Defendant. Further, the State of Tennessee may record any or all aspects of its solicitations or visit(s) with Defendant in audio or video form without notice to Defendant. The Defendant agrees to void any sale that is commenced by a test shopper at the conclusion of the sale upon notification that it was test shopping conducted by the State. Alternatively, Defendant shall be required to issue a full refund to the State for the purchase upon notification the sale involved test shopping under this Section.

16. PRIVATE RIGHT OF ACTION

16.1 Nothing in this Order shall be construed to affect any private right of action that a consumer may hold against Defendant.

17. NOTIFICATION TO STATE

17.1 For three (3) years following execution of this Order, Defendant shall notify the Deputy Attorney General, c/o Consumer Advocate & Protection Division, Post Office Box 20207, Nashville, Tennessee 37202-0207, in writing at least thirty (30) days prior to the effective date of any proposed changes in its corporate structure, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation or firm, the creation or dissolution or subsidiaries, or any other changes in Defendant's status that may effect compliance with

obligations arising out of this Judgment. However, if Defendants cease business and do not return to do business in the State of Tennessee, this provision shall only require notification for a period of one (1) year.

17.2 Any notices required to be sent to the State or the Defendant by this Order shall be sent by United States mail, certified mail return receipt requested or other nationally recognized courier service that provides for tracking services and identification of the person signing for the document. The documents shall be sent to the following addresses:

For the Tennessee Attorney General:	For the Defendant:
Deputy Attorney General Office of the Attorney General Consumer Advocate and Protection Division Post Office Box 20207 Nashville, Tennessee 37202 Telephone: (615) 741-1671 Facsimile: (615) 532-2910	Iriana Blitshtein, Esq. Law Offices of Blitshtein & Weiss, P.C. 648 Second Street Pike, 1st Floor Southampton, PA 18966: Telephone: (215) 364-4900 Facsimile: (215) 364-8050

18. FACSIMILE SIGNATURES

18.1 The parties agree and the Court approves that facsimile copies of a parties' signature may be attached to this Order and will constitute an original for the purposes of entering into this Order. The original signature page of the party(ies) will be provided to the Attorney General as soon as practicable.

19. PAYMENT OF COURT COSTS

19.1 All court costs associated with this action and any other incidental costs or expenses incurred thereby shall be borne by Defendant. No costs shall be taxed to the State as

provided by Tenn. Code Ann. § 47-18-116. Further, no discretionary costs shall be taxed to the State.

IT IS SO ORDERED, ADJUDGED AND DECREED.

JUDGE

JOINTLY APPROVED AND
SUBMITTED FOR ENTRY:

FOR THE ATTORNEY GENERAL, STATE OF TENNESSEE:

PAUL G. SUMMERS
Attorney General
B.P.R. No. 6285

BRANT HARRELL
Assistant Attorney General
B.P.R. No. 24470
State of Tennessee
Office of the Attorney General
Consumer Advocate & Protection Division
Post Office Box 20207
Nashville, TN 37202-0207
Telephone: (615)532-9299
Facsimile: (615) 532-2910

APPROVED BY:

MARY CLEMENT, DIRECTOR
Division of Consumer Affairs

FOR THE DEFENDANT:

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Attorney for Defendant
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city, state, zip code: Nashville, TN 37203
Telephone: (615) 425-7111
Facsimile: (615) 425-7110
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cekm 99742 September 26, 2006